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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 12th December, 1983:—

BILL No. XXXI OF 1983

A Bill further to amend the Sales Promotion Employees (Conditions of Service) Act, 1976.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Sales Promotion Employees (Conditions of Service) Amendment Act, 1983.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2

11 of 1976

2. In section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976 (hereinafter referred to as the principal Act), for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "sales promotion employee" means any person by whatever name called (including an apprentice) employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, but does not include any such person—

(*i*) who, being employed or engaged in a supervisory capacity, draws wages exceeding sixteen hundred rupees per mensem; or

(*ii*) who is employed or engaged mainly in a managerial or administrative capacity.

Explanation.—For the purposes of this clause, the wages per mensem of a person shall be deemed to be the amount equal to thirty times his total wages (whether or not including, or comprising only of, commission) in respect of the continuous period of his service falling within the period of twelve months immediately preceding the date with reference to which the calculation is to be made, divided by the number of days comprising that period of service.'.

Amendment of section 4.

3. Section 4 of the principal Act shall be re-numbered and shall be deemed to have been re-numbered with effect from the 8th day of March, 1976 as sub-section (*1*) thereof, and—

(*a*) in sub-section (*1*) as so re-numbered, in the opening portion, the words and brackets "drawing wages (being wages, not including any commission)" shall be omitted;

(*b*) after sub-section (*1*), as so re-numbered, the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 8th day of March, 1976, namely:—

"(*2*) The maximum limit upto which a sales promotion employee may accumulate earned leave shall be such as may be prescribed.

(*3*) The limit up to which the earned leave may be availed of at a time by a sales promotion employee and the reasons for which such limit may be exceeded shall be such as may be prescribed.

(*4*) A sales promotion employee shall,—

(*a*) when he voluntarily relinquishes his post or retires from service, or

(*b*) when his services are terminated for any reason whatsoever (not being termination as punishment),

be entitled to cash compensation, subject to such conditions and restrictions as may be prescribed (including conditions by way of specifying the maximum period for which such cash compensation shall be payable), in respect of the earned leave earned by him and not availed of.

(*5*) Where a sales promotion employee dies while in service, his heirs shall be entitled to cash compensation for the earned leave earned by him and not availed of.

(*6*) The cash compensation which will be payable to a sales promotion employee or, as the case may be, his heirs in respect of any period of earned leave for which he or his heirs, as the case may be, is or are entitled to cash compensation under sub-section (*4*) or sub-section (*5*), as the case may be, shall be an amount equal to the wages due to such sales promotion employee for such period.".

Amendment of section 6.

4. In section 6 of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) Notwithstanding anything contained in the foregoing sub-sections,—

(a) in the application of any Act referred to in any of the said sub-sections to sales promotion employees, the wages of a sales promotion employee for the purposes of such Act, shall be deemed to be his wages as computed in accordance with the provisions of this Act;

(b) where an Act referred to in any of the said sub-sections provides for a ceiling limit as to wages so as to exclude from the purview of the application of such Act persons whose wages exceed such ceiling limit, such Act shall not apply to any sales promotion employee whose wages as computed in accordance with the provisions of this Act exceed such ceiling limit.".

Amendment of section 12.

5. In section 12 of the principal Act, in clause (a) of sub-section (2), after the words "sales promotion employee", the words ", the limit up to which he may accumulate earned leave, the limit up to which he may avail of earned leave at a time and the reasons for which such limit may be exceeded, the conditions and restrictions subject to which he may be entitled to cash compensation" shall be inserted and shall be deemed to have been inserted with effect from the 8th day of March, 1976.

STATEMENT OF OBJECTS AND REASONS

The Sales Promotion Employees (Conditions of Service) Act, 1976 was enacted to regulate certain conditions of service of sales promotion employees as defined in that Act. This definition of "sales promotion employee" is somewhat restricted as it covers only sales promotion employees drawing wages not exceeding the ceiling limits provided in the definition the ceiling limits being Rs. 750 per mensem in the case of persons drawing wages not including any commission, and Rs. 9,000 per annum in the aggregate in the case of persons drawing wages including commission, or commission only.

2. Section 4 of the Act makes specific provisions relating to conditions of service of sales promotion employees as to leave, while section 5 of the Act provides for issue of appointment letters in the prescribed form to sales promotion employees. Section 6 of the Act makes the provisions of the Workmen's Compensation Act, 1923, the Industrial Disputes Act, 1947, the Minimum Wages Act, 1948, the Maternity Benefit Act, 1961, the Payment of Bonus Act, 1965 and the Payment of Gratuity Act, 1972 applicable to sales promotion employees in the same manner as those Acts are applicable to workmen or, as the case may be, employees.

3. In order to make available the benefits under the Act to a larger number of sales promotion employees, it is proposed to amend the definition of "sales promotion employee" contained in the Act so as to bring within the purview of the definition all sales promotion employees other than persons who are employed in a supervisory capacity and who draw wages exceeding Rs. 1,600 per month, and persons employed or engaged mainly in a managerial or administrative capacity, and make necessary consequential changes in section 6 of the Act (*vide* clauses 2 and 4 of the Bill).

4. With a view to avoiding scope for any doubt or challenge, it is proposed to avail of the present opportunity to amend section 4 of the Act to cover expressly the various matters relating to earned leave and cash compensation in lieu of earned leave in respect of which rules have been made. This amendment is being given retrospective effect from the date of the making of the said rules (*vide* clauses 3 and 5 of the Bill).

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 29th November, 1983. VEERENDRA PATIL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill seeks to amend section 12 of the principal Act relating to the power to make rules to provide expressly for the power to make rules with respect to the limit up to which a sales promotion employee may accumulate earned leave, the limit up to which he may avail of earned leave at a time, the reasons for which such limit may be exceeded and the conditions and restrictions subject to which a sales promotion employee may be entitled to cash compensation in lieu of earned leave. The amendment is proposed to be made with retrospective effect from the 8th day of March, 1976 being the date on which the Sales Promotion Employees (Conditions of Service) Rules 1976 were made. The matters in respect of which the rules may be made under these powers pertain to matters of detail and the delegation of power involved is, therefore, of a normal character. For the purpose of avoiding any scope of doubt and challenge, it is necessary to give retrospective effect to the amendment as the aforementioned Rules of 1976 contain provisions with regard to these matters.

SUDARSHAN AGARWAL,
Secretary-General

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